

# REGION 5 TRIBAL OPERATIONS COMMITTEE (R5TOC) MEETING SUMMARY U.S. EPA Region 5 ~ November 14, 2018

## Agenda Items

- Welcome and Introductions
- Presentation of the Taimi Lynne Hoag Award for Environmental Stewardship
- R5TOC Administrative Business
- EPA Priorities and Plans
- Tribal Involvement in EPA's E-Enterprise
- Key Issues in Indian Country: Reports from Michigan, Minnesota, and Wisconsin delegations
- PFAS Contamination: EPA Region 5 and Tribal Activities
- EPA Program Updates

## **Welcome and Introductions**

Interim R5TOC Co-Chair, Douglas Cox, welcomed the group and provided opening remarks. Shelley Buck, Prairie Island Indian Community's President, welcomed everyone to Prairie Island. Cathy Stepp, Regional Administrator (RA), also provided opening remarks. Elected officials present were recognized and introductions were made (list of attendees below).

## **Presentation of the Taimi Lynne Hoag Award for Environmental Stewardship**

Ms. Stepp and Ms. Buck presented the award to Mr. Cox, Chairman of the Menominee Indian Tribe. This year marks the 15th year that the Award has been presented. Mr. Cox thanked the R5TOC and expressed gratitude in being nominated. He spoke of the importance of recalling who helped make each of us who we are, the inspiration of tribal staff in Region 5, the support that EPA has provided to the tribes, and his gratitude to his previous counterparts and family.

## **Region 5 Tribal Operations Committee Administrative Business**

### *Tribal Caucus Report*

Jeff Mears, WI R5TOC Representative, presented the Tribal Caucus (Caucus) report from their meeting on November 13, 2018. Primary discussion items included:

Mark Parrish, R5TOC Co-Chair and MI R5TOC Representative, did not win his reelection and is no longer involved with the Caucus. Mr. Cox volunteered to be Acting R5TOC Co-Chair for the November 14 meeting. Allison Smart, MI R5TOC Representative, said a Michigan R5TOC Representative replacement will be named during the December Michigan Tribal Environmental Group (MTEG) Meeting. The R5TOC members will then vote for a new R5TOC Co-Chair and another National Tribal Operations Committee (NTOC) Representative in time for the March 2019 Tribal Environmental Program Management (TEPM) Conference.

The Tribal R5TOC Caucus encouraged more tribes to attend the Caucus calls; the conference calls are not limited to the R5TOC Caucus representatives.

Action items: EPA will share the GAP Guidance Evaluation comments that Region 5 submitted to AIEO, a description of changes and the definition of the Waters of the U.S with anticipated impacts in Indian Country, and the NTOC Representative's term limits and state rotation protocol.

The TEPM Conference will be held in Chicago on March 18-22, 2019. Members of the Caucus requested EPA to consider TEPM 2020 to be held outside of Chicago in Indian country. More EPA participation and presence during the conference were also requested.

The committee discussed the possibility of co-locating a future R5TOC Meeting with BIA Partners in Action. Co-locating the meeting would increase the probability of more tribal leaders participating. EPA will explore coordination with BIA and other federal entities on arranging a future meeting together. A request to expand the R5TOC to a two-day meeting with trainings for tribal staff was also discussed. Action item: tribes will email Ms. Stepp with possible improvements to make R5TOC meetings and committee work more functional and beneficial (i.e. informal conference calls between R5TOC meetings on single issues).

Tribes invited Ms. Stepp to have face to face meetings with their tribal leaders in Indian country. Ms. Stepp welcomed the invitations and will follow through with visits as her schedule allows.

Evelyn Ravindran, Director, Keweenaw Bay Indian Community (KBIC), Natural Resources Department, requested an update on their pending Water and supplemental Air Treatment as State (TAS) application of October 2017. A formal letter from KBIC's President was sent to the RA in the summer of 2018 requesting an update on the application, but no response was received. The RA explained the delay of approval is due to Headquarters review to ensure TAS applications are consistent nationally (e.g. consistency on notices of comment). Felicia Wright, Acting Director of the American Indian Environmental Office (AIEO), explained Chad McIntosh in EPA's Office of International and Tribal Affairs (OITA) has yet to be confirmed by the Senate, but that he has been working closely with the Administrator's Office to create better certainty of how the TAS process will move forward. Moving forward, OITA will have a stronger role to ensure consistency and appropriate opportunities for input.

Ms. Stepp apologized for the missed communication regarding KBIC's letter and agreed to an action item of calling KBIC's President Swartz to discuss the status of KBIC's application. KBIC invited Ms. Stepp to attend the MTEG Meeting on December 5, 2018 and to have a face to face meeting with KBIC's President. The RA will be checking her availability. Leech Lake also requested an update on their Water TAS application. Region 5's front office was tasked with an action item of providing quarterly updates on all pending applications. Tribes felt quarterly updates would help. Leech Lake also requested EPA revisit MOU/MOA discussions for the Brownfields 128(a) Program. Further discussion included sovereignty issues, trust responsibility, and working relationships with states.

#### *Update from the National Tribal Operations Committee (NTOC)*

The next NTOC Meeting will be in January or February of 2019, depending upon Acting Administrator Wheeler's schedule. Mr. Cox plans on attending the NTOC Meeting if his schedule allows. The National Tribal Caucus (NTC) is discussing potential agenda items for the

NTOC Meeting. The NTC is focusing on Acting Administrator Wheeler's top three priorities – risk communication, enforcement, and permitting, in the context of tribes in Indian country. The NTC is also examining the best approach on presenting a budget document that outlines the Regions' financial needs. If the Caucus would like to provide any input, they can contact Mr. Cox or the Executive Committee of the NTC. Mr. Cox shared the previous meeting minutes of the NTC monthly calls to the Caucus.

The Caucus requested the R5TOC meeting summaries to be shared further in advance to assist on the preparation of NTOC meetings. Daniel Samardzich, Project Officer, provided clarity on past practices for distribution of R5TOC draft meeting summaries.

Action item: the draft November 2018 R5TOC Meeting Summary will be shared with the attendees by the first week of December 2018. Attendees will have 30 days to review and comment, and the final summary will be shared two weeks prior to the next R5TOC meeting.

#### *Approval of Meeting Summaries*

A copy of the meeting summaries from November 2017 and April 2018 were included in the meeting packet. A motion was made by Mr. Cox and seconded by Chris Korleski to accept the meeting summary for November 2017. No objections were stated, and the meeting summary was approved as presented. No comments were stated on the April 2018 meeting summary. While comments were invited, a motion was not needed on the April 2018 meeting summary, since the meeting was not an official R5TOC meeting.

#### *Review of the Action Item Tracking Matrix*

John Haugland, Acting Director of TIAO, reviewed the items listed in the R5TOC Action Item Tracking Matrix. All items were deemed complete in April 2018, except the 2013 IEGAP Guidance action item. Since then, TIAO hosted a quarterly call on October 22, 2018 with Region 5 tribes to discuss the IEGAP Guidance Evaluation. TIAO received input and sent comments to AIEO. An action item of sharing these comments with the Caucus will replace the previous IEGAP Guidance action item. All items of the April 2018 R5TOC Action Item Tracking Matrix were then deemed complete. TIAO will send out an updated Tracking Matrix from the November 14<sup>th</sup> R5TOC meeting.

#### **EPA Priorities and Plans**

Ms. Wright provided an overview of the Administration's view of Cooperative Federalism (CF). She shared a schematic that represents AIEO's involvement in supporting CF under Goal 2 of EPA's Strategic Plan. AIEO focuses on GAP Funding, TAS, ETEPs, DI, and Consultations as CF tools. There are four components within Goal 2 that help set the CF framework: 1) Clarifying EPA's statutory roles and responsibilities with state and tribal oversight, 2) Direct Implementation responsibility to make sure EPA is implementing federal laws and statutes appropriately in order to protect human health and the environment in Indian country, 3) Ensuring consistent and fair enforcement of federal environmental laws and regulations, 4) Working with tribes to develop their capacity to administer and implement federal environmental programs. Ms. Wright highlighted that the principles of the 1984 Indian Policy are mirrored in the principles of the Strategic Plan, showing consistency between the two.

Ms. Wright also clarified how ETEPs can be used, referencing how the GAP Guidance promotes the use of ETEPs as a strategic planning document for short, medium, and long-term goals. If used as a workplan, the grant commitments would be keyed to the ETEP's goals. Tribal representatives pointed out that definitions of long-term planning differ between EPA and tribes. AIEO welcomes additional input on ETEPs to reduce administrative burden and find that "sweet spot". Ms. Smart raised the administrative burden issue of 2 CFR 200's limitation of using federal funds to develop grant proposals. The limitation restricts tribes' ability to build capacity. More education, clearer direction, and shared accountability are needed on both sides for how ETEPs should be written and used, since it varies by Region. The Caucus was tasked with an action item of letting EPA know what they feel the best approaches would be for using ETEPs.

Ms. Stepp's overarching goal for all programs is to build capacity for EPA's regulatory partners. Her role is to be a bridge for state and tribal partners and improve government to government relations. Examples of the RA's concerns include: drinking water infrastructure, combined sewage overflow systems, ground water contamination and invasive species. In responding to a tribal question on climate change, the RA said that EPA's role is to interpret the rules of the laws that are in place today and to make sure they are appropriately implemented and enforced on the ground. The larger conversation of the science and new rules on the environmental issues such as climate change are a discussion for Congress.

### **EPA E-Enterprise Program**

Allen Melcer, Chief, Program Services Branch, Land and Chemicals Division, provided an overview of "E-Enterprise for the Environment". E-Enterprise is a collaborative model to simplify, streamline, and modernize the implementation of environmental programs. It builds on the framework of the Exchange Network, which is a platform for exchanging environmental data and making informed decisions. E-Enterprise has three goals: streamline processes and modernize the implementation of environmental programs, optimize technology to enhance services to users, and shared governance to co-manage through partnerships.

An E-Enterprise Leadership Council (EELC) has ten representatives each from EPA, tribes, and states. The Caucus is tasked to appoint a tribal EELC member for Region 5. Any questions can be directed to Mr. Melcer at [ [HYPERLINK "mailto:melcer.allen@epa.gov"](mailto:melcer.allen@epa.gov) ].

### **Key Issues in Indian Country: Reports from MI, MN, and WI delegations**

Seth Moore, Deb Dirlam, Mr. Mears, and Ms. Smart provided overviews of key issues in Indian Country, including: climate adaptation, air quality, wild rice sulfate standards, funding, agricultural, permitting compliance, treaty rights, TAS, mining, CAFO, culverts for fish passages, protection of species from alternative energy methods, initial tribal input on emerging concerns/major events, statewide TMDLs, and PFAS.

Action items include: Caucus representatives will send Mr. Haugland a detailed list of tribal issues in Indian Country; Mr. Haugland will arrange follow-up conference calls with the Caucus; Jenny Wilson (EPA's front office) will assist GLNPO in creating a list of Great Lakes groups with short descriptions of each; Linda Holst will look into the role of state methods not applicable to tribes in the 106 QAPP review process, tribes will send Mr. Haugland list of environmental workgroups where tribes are active.

### **PFAS Contamination: EPA Region 5 and Tribal Activities**

The previous EPA Administrator held a summit in May 2018 to hear what struggles communities were facing with PFAS. Engagement sessions occurred all over the country. A national action plan is underdevelopment and will be released at the end of the year. PFAS is a national multi-media issue not limited to water (i.e. PFAS found in deer and ducks). Region 5 has an internal workgroup involving all affected programs. An effort to bring in other states, in addition to Michigan, is underway as well.

As of November 5, 2018, there are PFAS results for 10 tribal systems in Michigan (among 7 different tribes) from the testing undertaken by the state in cooperation with the tribes. All PFAS results at these 10 systems were non-detect (14 different PFAS compounds are analyzed in EPA Standard Method 537).

### **EPA Program Updates**

#### *Air and Radiation Division (ARD)*

Ed Nam, Director, Air and Radiation Division (ARD), provided an update on ARD activities. Ozone designations were finalized in April 2018, 55 areas are designated in the country, 14 are in Region 5. Region 5 hosted a hearing in Chicago on the Affordable Clean Energy Act Proposal. The comment period is now closed. EPA is pursuing the following priorities for Air: a lean management system on tracking the metrics for nonattainment areas and State Implementation Plan (SIP) back logs. The air quality in Region 5 is improving, the number of nonattainment areas are going down. ARD conducted a permitting Kaizen event and leaned the permitting issuance timeframe from 13 months to 6 months. The new average is 3.5 months.

#### *Tribal and International Affairs Office (TIAO)*

Mr. Haugland provided an update on TIAO activities. TIAO's Project Officer are in the process of sending funding allocation letters for April 1, 2019 start dates. Mr. Haugland thanked the tribes for their input on Early Engagement. TIAO is now hosting quarterly calls to provide and/or address updates from AIEO and resolve any issues that tribes may have. Mark Elster volunteered to facilitate the TEPM coordination for the 2019 conference. Anyone interested in joining the TEPM workgroup can contact Mr. Elster at [ [HYPERLINK "mailto:Elster.Mark@epa.gov"](mailto:Elster.Mark@epa.gov) ]. Tribes suggested a TEPM session on future TEPM planning.

EPA provided an update on the Regional Realignments. All 10 Regions are realigning their offices to be as similar as possible to the national programs for better consistency. A possible third tribal liaison position is still under review in Region 5 and will be evaluated in EPA's quarterly hiring process. The tribal function will remain in the Office of the Regional Administrator but TIAO will be consolidated into a new Multimedia Programs Office (MPO). Ms. Stepp stated this will not change the delivery of tribal programs. An action item will be for EPA to share the organizational chart of MPO when available.

#### *Land, Chemical and Redevelopment Division (LCARD) (Name Change)*

Mr. Melcer provided updates on the following topics:

- Interagency Agreement (IA) with Indian Health Service (IHS) for Children's Health and Healthy Homes
- Lead Awareness in Indian Country: Keeping our Children Healthy! (Tribal Lead Curriculum)
- Tribal Underground Storage Tank Program
- EPA's Role in Providing Compliance Assistance and Monitoring Compliance

Details and points of contact for each item were provided in the meeting packet.

### *Superfund*

Rett Nelson, Office of Regional Council Director, provided an update on St. Regis Superfund site. Three sites have been designated for immediate action: East Chicago in Indiana, Kalamazoo in Michigan, and St. Regis in Minnesota. Since the proposed plan at St. Regis in 2016, risk-based analysis is being made. Internal progress has increased from 50% to 85%. A decision will be made public very soon.

### *Office of Enforcement and Compliance Assurance (OECA)*

Alan Walts, OECA Director, provided additional information on MPO's development. Mr. Walts will be overseeing the tribal, international affairs, NEPA, EJ, and Children's Health programs in the new office. Lead remains a priority for EPA in Indian Country. Through EPA's Environmental Justice (EJ) and Children's Health Programs regional leadership is being carried out. If any tribes have concerns about sources of lead exposure or impacts on tribal community members, they can contact Mr. Walts at [ [HYPERLINK "mailto:Walts.Alan@epa.gov"](mailto:Walts.Alan@epa.gov) ].

### *Great Lakes National Program Office (GLNPO)*

Chris Korleski, GLNPO Director, provided an update on GLRI Action Plan 3. Congress agreed to continue funding for the Great Lakes Restoration Initiative (GLRI) Program. Action Plan 3 covers the time period of 2020-24. The Plan was sent to Headquarters for review and will be finalized prior to October 1, 2020. After the Headquarters' review, tribes will have an opportunity to review and comment. Mr. Korleski recommended visiting the website [ [HYPERLINK "https://www.glri.us/"](https://www.glri.us/) ]. GLRI project updates are provided every third day. If tribal partners have projects to share they can submit them at [ [HYPERLINK "https://www.glri.us/contact"](https://www.glri.us/contact) ]. Mr. Korleski also clarified that EPA does not have an informal or formal role in Great Lakes compact activities.

EPA is discussing 638 funding and accountability with BIA and is optimistic about continuing this approach through its Interagency Agreement with the Bureau.

### *Water Division (WD)*

Ms. Holst, WD Acting Director, reiterated if there are any questions or issues related to Water tribes can contact her at [ [HYPERLINK "mailto:Holst.Linda@epa.gov"](mailto:Holst.Linda@epa.gov) ]. The Groundwater and Drinking Water Program is heavily vested in Lead and PFAS. WD is working on a lean management system to eliminate the back log of permit reviews and reduce the amount of time to issue permits.

### *Resource Management Division (RMD)*

Cheryl Newton, RMD Director, gave an update on EPA's Continuing Resolution (CR). The CR expires on December 7, 2018. If there are questions or urgencies on grant matters due to the expiring CR, tribes are encouraged to contact their Project Officer as soon as possible.

Attendees Sign in Sheet:

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The R5TOC meeting was adjourned at approximately 1:00pm. The next R5TOC meeting is scheduled for Thursday, March 21, 2019, at EPA offices in Chicago.